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4 Attorney for Defendant Jimmy G.Y. Lee

5)
6 UNITED STATES OF AMERICA)
7 Plaintiffs,)
8 vs.)
9 JIMMY GONG YANG LEE,)
10 Defendant.)
11 _____

CR No. 05-00395 CRB

**REQUEST, STIPULATION AND
ORDER**

12 This matter is currently on the Court's calendar for August 30, 2006. Through counsel,
13 defendant Jimmy Gong Yang Lee and the United States ask the Court to (a) vacate the August 30,
14 2006 date based on the defendant's anticipated plea agreement, (b) set a date of October 4, 2006 for
15 change-of plea, and exclude time under the Speedy Trial Act, 18 U.S.C. § 3161 from July 26, 2006
16 to August 23, 2006.

17 1. The parties have been diligently working out the language of a plea agreement and request
18 that the court set the matter for October 4, 2006 for change-of-plea. It was anticipated that a plea
19 agreement would be signed and a plea of guilty entered on August 30, 2006, however, counsel for
20 defendant is unavailable on that date due to an emergency medical appointment which cannot be re-
21 scheduled and the next date that both counsel are available is October 4, 2006.

22 2. The parties agree that the time between August 30, 2006 and October 4, 2006 should be
23 excluded from the Speedy Trial Act clock. Previously, this Court has declared this case complex,.
24 See 18 U.S.C. § 3161(h)(8)(B)(ii). Because of the need for defense counsel to receive urgent medical
25 care the parties agree that the continuance is necessary for the continuity of counsel and effective
26 preparation of defense counsel taking into consideration of due diligence. See 18 U.S.C.
27 §3161(h)(8)(B)(iv). The parties also agree that the ends of justice served by excluding the period from
28 August 30, 2006 to October 4, 2006 outweigh the interest of the public and the defendant to a Speedy

1 Trial. See id.

2 3161(h)(8)(A).

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4 STIPULATED:

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6 DATE: August 24, 2006

/S/ PETER B. AXELROD
PETER B. AXELROD
LAUREL BEELER
Assistant U.S. Attorneys

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9 DATE: August 24, 2006

/S/ ALAN DRESSLER
Alan Dressler
Attorney for Defendant
Jimmy Gong Yan Lee

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13 **ORDER**

14 For good cause shown, and for the reasons stated above, the Court (a) vacates the August 30,
15 2006, hearing date for defendant Jimmy Gong Yang Lee based on the anticipated plea agreement,
16 2:15 p.m.
17 (b)sets the matter for change-of-plea on October 4, 2006 at 10:00 a.m., and (c) excludes time under
18 the Speedy Trial Act, 18 U.S.C. § 3161, from August 30, 2006 to October 4, 2006. The Court finds
19 that the failure to grant the requested exclusion would deny the defendant continuity of counsel and
20 defense counsel reasonable time necessary for effective preparation taking into account the exercise
21 of due diligence. Further, the Court finds the exclusion warranted on complexity grounds, under 18
22 U.S.C. § 3161(h)(8)(B)(ii). Thus, the Court finds the ends of justice served by granting the requested
23 exclusion outweigh the best interest of the public and the defendant in a speedy trial and in prompt
24 disposition of criminal cases. The Court therefore concludes that this exclusion of time should be
25 made under 18 U.S.C. §3161(h)(8)(A), (h)(8)(B)(ii) and (h)(8)(B)(iv).

26
27 **IT IS SO ORDERED.**

28 DATED: August 28, 2006

CHARLES R. BREYER
United States District Judge

